

**CONTRACT AMENDMENT NO. 4**  
**CD EVALUATIONS**  
**CEDAR CREEK INTEGRATED HEALTH**  
**CONTRACT NO: COR-SVCS-2019-0209-PPD**

This CONTRACT AMENDMENT No. 4 amends the above-referenced contract between the **State of Montana, Department of Corrections** (State), whose address and phone number are P.O. Box 201301, 5 South Last Chance Gulch, Helena, MT 59620-1301, 406-444-3930 and **Cedar Creek Integrated Health**, (Contractor), whose address and phone number are 109 1<sup>st</sup> Avenue, PO Box 1179, St. Ignatius, MT 59865, (406) 203-9948. This Contract is amended for the following purpose(s):

- 1) In accordance with Section 1, of the above referenced contract, entitled Effective Date, Duration, and Renewal, parties mutually agree to extend this Contract for the period September 1, 2022, through February 28, 2023, per the terms, conditions, and prices agreed upon. This is the 3<sup>rd</sup> renewal, 3<sup>rd</sup> partial year of the Contract. This Contract, including any renewals, may not exceed a total of seven (7) years.
- 2) In accordance with Section 2, of the above referenced contract, entitled Services, parties mutually agree to add the following services to the Contract as Subsection 2.4, entitled CD/Mental Health Evaluation Submission, per the following specifications, to start upon execution of Amendment 4:

**2.4 CD/Mental Health Evaluation Submission.** Contractor, upon completion of all CD and Mental Health evaluations, shall submit evaluations in PDF format to MASC within fourteen (14) business days to the following email address: [Hsmith2@mt.gov](mailto:Hsmith2@mt.gov).

No changes to subsection 2.1 through 2.3.

- 3) In accordance with Section 21, of the above referenced contract, Liaisons and Service of Notices, subsection 21.1, entitled Contract Liaisons, parties mutually agree to a change of the Contractor's liaison.

**CURRENT:**

Julie Fleck is Contractor's liaison.  
1511 S. Russell St.  
Missoula, MT 59801  
Telephone: 406-203-9948  
Cell Phone: 406-885-4074  
Fax: 406-203-9949  
E-mail: [jfleck@sunburstfoundation.org](mailto:jfleck@sunburstfoundation.org)

**NEW:**


Aubrey Reed is Contractor's liaison.  
109 1<sup>st</sup> Ave.  
St. Ignatius, MT 59865  
(406) 880-4157  
[Aubreyr@cedarcreekintegratedhealth.com](mailto:Aubreyr@cedarcreekintegratedhealth.com)

No changes to subsection 21.2.

Except as modified above, all other terms and conditions of Contract No. **COR-SVCS-2019-0209-PPD**, **including Amendment #1 and #3**, remain unchanged.

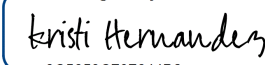
**STATE OF MONTANA**  
**Montana Department of Corrections**  
**5 S. Last Chance Gulch**  
**Helena, MT 59601**

**Cedar Creek Integrated Health**  
**109 1<sup>st</sup> Avenue**  
**St. Ignatius, MT 59865**

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10/28/2022  
Megan Coy, Bureau Chief  
Facilities and Programs Bureau  
(Date)

DocuSigned by:  
  
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10/28/2022  
Don Fleck  
Managing Partner  
(Date)

Approved as to Form:

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10/27/2022  
Kristi L. Hernandez, Contracts Officer  
Financial Services Bureau  
(Date)

Approved as to Legal Content:

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10/27/2022  
Molenda McCarty, Legal Counsel  
Legal Services Bureau  
(Date)

**CONTRACT AMENDMENT NO. 3**  
**CD EVALUATIONS**  
**CONTRACT NO: COR-SVCS-2019-0209-PPD**

This CONTRACT AMENDMENT No. 3 amends the above-referenced contract between the **State of Montana, Department of Corrections** (State), whose address and phone number are P.O. Box 201301, 5 South Last Chance Gulch, Helena, MT 59620-1301, 406-444-3930 and **Cedar Creek Integrated Health**, (Contractor), whose address and phone number are 109 1<sup>st</sup> Avenue, PO Box 1179, St. Ignatius, MT 59865, (406) 203-9948. This Contract is amended for the following purpose(s):

WHEREAS, the State of Montana, Department of Corrections is hereinafter referred to as “State” rather than “Department”, in the opening paragraph, all references in the original contract, and all previous amendments.

WHEREAS, the Contractor’s address has been corrected in the opening paragraph to reconcile with their current address.

- 1) In accordance with Section 1, of the above referenced contract, entitled Effective Date, Duration, and Renewal, parties mutually agree to extend this Contract for the period March 1, 2022, through August 31, 2022, per the terms, conditions, and prices agreed upon. This is the 2<sup>nd</sup> renewal, 3<sup>rd</sup> partial year of the Contract. This Contract, including any renewals, may not exceed a total of seven (7) years.
- 2) In accordance with Section 7, of the above referenced contract, entitled Defense, Indemnification/Hold Harmless, parties mutually agree to replace the previously agreed upon language with the language as shown below:

**7. DEFENSE, INDEMNIFICATION / HOLD HARMLESS**

Contractor shall protect, defend, indemnify, and save harmless the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, from and against all claims, liabilities, demands, causes of action, judgments, and losses, including all costs of defense and reasonable attorney fees, arising in favor of or asserted by Contractor’s employees and agents, its subcontractors, its subcontractor’s employees and agents, or third parties on account of property damage, personal injury, bodily injury, death, or financial or other loss of any kind that in any way, directly or indirectly, arise or allegedly arise out of or in connection with this Contract.

Contractor waives all claims, demands, causes of action, and recourse against the State, including claims of contribution or indemnity, arising in favor of Contractor on account of property damage, personal injury, bodily injury, death, or financial or other loss of any kind that in any way, directly or indirectly, arise or allegedly arise out of or in connection with this Contract.

- 3) In accordance, with Section 10, entitled Complying with Dark Money Spending Disclosure Requirements, parties mutually agree to delete the section in its entirety in accordance with State of Montana Executive Order 3-2021. For clarity, subsequent sections will not be renumbered.
- 4) In accordance with Section 12, of the above referenced contract, entitled Compliance with Laws, parties mutually agree to replace the previously agreed upon language with the language as shown below:

## 12. COMPLIANCE WITH LAWS

Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act 42 U.S.C. § 18001 et seq. Contractor will comply with the Prison Rape Elimination Act 34 U.S.C. § 30301 et seq., the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.1.17, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA to include incident reporting. State has a zero-tolerance policy as to incidents of sexual assault/rape or sexual misconduct in its correctional facilities or premises. Contractor is referred to § 45-5-501 MCA. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions. In accordance with § 49-3-207, MCA, and State of Montana Executive Order No. 04-2016, Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

**12.1 Affordable Care Act.** The Affordable Care Act requires a Contractor, if Contractor is an applicable large employer under the ACA, to provide healthcare coverage for its employees who provide services for the State and work for 30 or more hours per week. This coverage must also cover the eligible employee's dependents under the age of 26. The coverage must (a) meet the minimum essential coverage, minimum value, and affordability requirements of the employer responsibility provisions under Section 4980H of the Code (ACA), and (b) otherwise satisfy the requirements of the Code § 4980H (ACA).

- 5) In accordance with Section 14, of the above referenced contract, entitled Registration with the Secretary of State, parties mutually agree to replace the previously agreed upon language with the language as shown below:

## 14. REGISTRATION WITH THE SECRETARY OF STATE


Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are domiciled in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with §§ 35-14-1505, 35-8-1001, and 35-12-1309 MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. §§ 35-8-1001, 35-12-1302, and 35-14-1502, MCA. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

Except as modified above, all other terms and conditions of Contract No. **COR-SVCS-2019-0209-PPD, including Amendment #1 and #2**, remain unchanged.

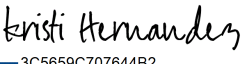
**STATE OF MONTANA**  
**Montana Department of Corrections**  
**5 S. Last Chance Gulch**  
**Helena, MT 59601**

**Cedar Creek Integrated Health**  
**109 1<sup>st</sup> Avenue**  
**St. Ignatius, MT 59865**

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Megan Coy, Bureau Chief  
Program and Facilities Bureau  
4/19/2022  
(Date)

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Don Fleck  
Managing Partner  
4/18/2022  
(Date)

Approved as to Form:

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Kristi L. Hernandez, Contracts Officer  
Financial Services Bureau  
4/18/2022  
(Date)

Approved as to Legal Content:

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Molenda McCarty, Legal Counsel  
Legal Services Bureau  
4/15/2022  
(Date)

**CONTRACT AMENDMENT NO. 2**  
**CONTRACT FOR: CD EVALUATIONS**  
**CONTRACT NO: COR-SVCS-2019-0209-PPD**

This CONTRACT AMENDMENT No. 2 amends the above-referenced contract between the **State of Montana, Department of Corrections** (Department), whose address and phone number are P.O. Box 201301, 5 South Last Chance Gulch, Helena, MT 59620-1301, 406-444-3930 and **Cedar Creek Integrated Health**, (Contractor), whose address and phone number are 1635 S. Russell St., Missoula, MT 59801 and (406) 203-9948. This Contract is amended for the following purpose(s):

WHEREAS, the Contractor's address has been corrected in the opening paragraph to reconcile with their current address.

WHEREAS, the reference in Section 15 to § 35-1-1026 MCA, has been replaced with § 35-14-1502, MCA, to reconcile with current Montana Code Annotated.

- 1) In accordance with Section 2, of the above-referenced contract, entitled Services, parties mutually agree to additional services being added to the Contract as Section 2.3, entitled Telepsychiatry Services, per the following specifications, to start upon execution of Amendment 2:

**NEW:**

**2.3 Telepsychiatry Services.** Upon request from the State, Contractor shall provide the following Telepsychiatry Services via Teams meetings within 30 calendar days of the State's date of request: initial telepsychiatry services, follow-up appointments to assure Offender is responding appropriately to medications and to assess whether medication adjustments are needed, and periodic consultation with the assessment or treatment team for the Offender being provided this service.

- 2) In accordance with Section 4, of above referenced contract, entitled Consideration/Payment, parties mutually agree to an addition in subsection 4.1, entitled Payment Schedule, for payment of additional services specified above.

**NEW:**

F. In consideration for services to be provided, the Department shall pay Contractor according to the following schedule:

Telepsychiatry Services provided shall be billed to Conduent on a HCFA-1500 claim form. Billing information shall include, but not be limited to: the Medicaid ID number, valid diagnosis codes, and Montana Medicaid's current procedure/service codes. Claims shall be submitted to:

Conduent-Claims Processing Unit  
PO Box 8000  
Helena, MT 59604

Conduent shall compensate Contractor according to current fee schedules and limits as contained in Montana Medicaid's Manual. Only claims submitted by Contractor within one (1) year of date of service shall be processed. Invoices billed under the Telepsychiatry Services Section are not included in the total contract maximum amount specified in 4.1C of this section.

Except as modified above, all other terms and conditions of Contract No. **COR-SVCS-2019-0209-PPD, including Amendment #1**, remain unchanged.

**STATE OF MONTANA**  
**Montana Department of Corrections**  
**5 S. Last Chance Gulch**  
**Helena, MT 59601**

**Cedar Creek Integrated Health**  
**1635 S. Russell St.**  
**Missoula, MT 59801**

BY: Megan Coy, PFB Bureau Chief

(Name/Title)

DocuSigned by:

*Megan Coy*

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(Signature)

2/2/2021

DATE: \_\_\_\_\_

BY: Don Fleck, Managing Partner

(Name/Title)

DocuSigned by:

*Don Fleck*

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(Signature)

2/1/2021

DATE: \_\_\_\_\_

Approved as to Form:

DocuSigned by:

*Kristi Hernandez*

2/1/2021

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Contracts Officer (Date)

Department of Corrections

Approved as to Legal Content:

DocuSigned by:

*Melenda McLarty*

2/1/2021

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Legal Counsel (Date)

Department of Corrections

## NOVATION AGREEMENT

The **Sunburst Community Service Foundation ABN Sunburst Mental Health Services** (Transferor), a corporation duly organized and existing under the laws of Montana with its principal office in **Missoula**; and **Sunburst LLC ABN Cedar Creek Integrated Health** (Transferee), a corporation duly organized and existing under the laws of **Montana** with its principal office in **Missoula**; and State of Montana, **Montana Department of Corrections** (State), enter into this Agreement as of **March 1, 2020**.

### THE PARTIES AGREE TO THE FOLLOWING FACTS:

(1) The State has entered into certain contracts with the Transferor, namely: **CD Evaluations, Contract #COR-SVCS-2019-0209-PPD**. The term "the contracts," as used in this Agreement, means the above contracts and purchase orders and all other contracts and purchase orders, including all modifications, made between the State and the Transferor on or before the effective date of this Agreement (whether or not performance and payment have been completed and releases executed if the State or the Transferor has any remaining rights, duties, or obligations under these contracts and purchase orders).

(2) As of **March 1, 2020**, the Transferor has transferred to the Transferee all rights and obligations of the Transferor to the contracts listed above by virtue of a **sale/purchase of assets and obligations** between the Transferor and the Transferee.

(3) The Transferee has assumed all obligations and liabilities of the Transferor under the contracts by virtue of the above transfer.

(4) The Transferee is in a position to fully perform all obligations that may exist under the contracts.

(5) It is consistent with the State's interest to recognize the Transferee as the successor party to the contracts.

### IN CONSIDERATION OF THESE FACTS, THE PARTIES AGREE THAT BY THIS AGREEMENT:

(1) The Transferor confirms the transfer to the Transferee and waives any claims and rights against the State that it now has or may have in the future in connection with the contracts.

(2) The Transferee agrees to be bound by and to perform each contract in accordance with the conditions contained in the contracts. The Transferee also assumes all obligations and liabilities of, and all claims against, the Transferor under the contracts as if the Transferee were the original party to the contracts.

(3) The Transferee ratifies all previous actions taken by the Transferor with respect to the contracts, with the same force and effect as if the action had been taken by the Transferee.

(4) The State recognizes the Transferee as the Transferor's successor in interest in and to the contracts. The Transferee by this Agreement becomes entitled to all rights, titles, and interests of the Transferor in and to the contracts as if the Transferee were the original party to the contracts.

(5) Except as expressly provided in this Agreement, nothing in it shall be construed as a waiver of any rights of the State against the Transferor.

(6) All payments and reimbursements previously made by the State to the Transferor, and all other previous actions taken by the State under the contracts, shall be considered to have discharged those parts of the State's obligations under the contracts. All payments and reimbursements made by the State after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to the Transferee and shall constitute a complete discharge of the State's obligations under the contracts, to the extent of the amounts paid or reimbursed.




(7) The Transferor and the Transferee agree that the State is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer or this Agreement, other than those that the State in the absence of this transfer or Agreement would have been obligated to pay or reimburse under the terms of the contracts.

(8) The Transferor guarantees payment of all liabilities and the performance of all obligations that the Transferee (i) assumes under this Agreement or (ii) may undertake in the future should these contracts be modified under their terms and conditions. The Transferor waives notice of, and consents to, any such future modifications.

(9) The contracts shall remain in full force and effect except as modified by this Agreement. Each party has executed this Agreement as of the day and year first above written.

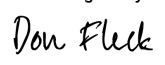
**STATE OF MONTANA**  
**Department of Corrections**  
**5 S. Last Chance Gulch**  
**Helena, MT 59601**

BY:   
81BB8FEFC95846B...  
 Megan Coy, Bureau Chief  
 7/21/2020  
 DATE: \_\_\_\_\_

**Sunburst Community Service Foundation**  
**TRANSFEROR**  
**1511 S. Russell**  
**Missoula, MT 59801**  
**FEDERAL ID # 81-0500933**

BY:   
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 Julie A. Fleck, Executive Director  
 7/21/2020  
 DATE: \_\_\_\_\_

**Cedar Creek Integrated Health**  
**TRANSFEE**  
**1635 S. Russell**  
**Missoula, MT 59801**  
**FEDERAL ID# 83-1061335**

BY:   
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 Don Fleck, Managing Partner  
 7/21/2020  
 DATE: \_\_\_\_\_

**CONTRACT AMENDMENT NO. 1**  
**CONTRACT FOR: CD EVALUATIONS**  
**CONTRACT NO: COR-SVCS-2019-0209-PPD**

This CONTRACT AMENDMENT 1, effective **March 1, 2020**, is to amend the above-referenced contract between the **State of Montana, Department of Corrections** (Department), whose address is 5. S. Last Chance Gulch, Helena, MT 59601 and telephone number (406) 444-3930; and **Cedar Creek Integrated Health** (Contractor), whose address is 1511 S. Russell St., Missoula, MT 59801 telephone number (406) 203-9948. This Contract is amended for the following purpose(s):

As of **March 1, 2020**, **Sunburst Health, LLC** (Transferor) transferred to the Contractor all rights and obligations of this contract.

The Contractor has assumed all obligations and liabilities of the Transferor under the contract by virtue of the above transfer. The Contractor shall fully perform all obligations under the contract.

Evidence of the above transfer has been received by the State in the form of a Novation Agreement dated **March 27, 2020**, signed by duly appointed officers of the Transferor and Contractor, signed by the State, and filed with the State Procurement Bureau.

Following the effective date of this Amendment, the term "Contractor," as used in this contract, shall refer to the Novation Agreement Transferee, Cedar Creek Integrated Health.

- 1) In accordance with Section 1, of the above referenced contract, entitled Effective Date, Duration, and Renewal, parties mutually agree to extend this Contract for the period **March 1, 2020**, through **February 28, 2022**, per the terms, conditions, and prices agreed upon. This is the 1<sup>st</sup> renewal, 2<sup>nd</sup> and 3<sup>rd</sup> year of the Contract.


Except as modified by this and any prior amendments, the terms and conditions of Contract No. **COR-SVCS-2019-0209-PPD**, remain unchanged. Each party has executed this Amendment as of the day and year written below.

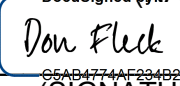
**STATE OF MONTANA**  
**Department of Corrections**  
**5 S. Last Chance Gulch**  
**Helena, MT 59601**

**Cedar Creek Integrated Health**  
**1635 S. Russell St.**  
**Missoula, MT 59801**  
**FEDERAL ID#83-1061335**

BY: Megan Coy, Bureau Chief  
 (NAME/TITLE)

BY: Don Fleck, Managing Partner  
 (NAME/TITLE)

  
 (SIGNATURE)


  
 (SIGNATURE)

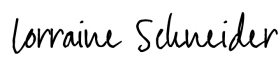
DATE: 7/21/2020

DATE: 7/21/2020

Approved as to Form:

Approved as to Legal Content:

  
 7/16/2020  
 Contracts Officer Date  
 Department of Corrections

  
 7/16/2020  
 Legal Counsel Date  
 Department of Corrections

## **CD EVALUATIONS COR-SVCS-2019-0209-PPD**

**THIS CONTRACT** is entered into by and between the State of Montana, **Montana Department of Corrections** (Department), whose address and phone number are 5 S. Last Chance Gulch, Helena, MT 59601, (406) 444-3930 and **Sunburst Mental Health**, whose address and phone number are 1511 S Russell St., Missoula, MT 59801 and 406-203-9948.

### **1. EFFECTIVE DATE, DURATION, AND RENEWAL**

**1.1 Contract Term.** The contract's initial term is upon contract execution through February 29, 2020, unless terminated earlier as provided in this contract. In no event is this contract binding on the Department unless the Department's authorized representative has signed it. The legal counsel signature approving legal content of the contract does not constitute an authorized signature.

**1.2 Contract Renewal.** The Department may renew this contract under its then-existing terms and conditions in one-year intervals, or any interval that is advantageous to the Department. This contract, including any renewals, may not exceed a total of seven (7) years.

### **2. SERVICES**

**2.1 Services.** Contractor shall provide the Department the following:

Substance use disorder (also known as chemical dependency or CD evaluations) and mental health (MH) evaluations for offenders in Missoula Assessment and Sanction Center (MASC), located in Missoula County Detention Facility (MCDF), 2340 Mullan Road, Missoula MT, 59808. All evaluations shall take place at MASC at the request of Department staff.

All services delivered to offenders shall adhere to evidence-based or research-driven practices and shall be subject to ongoing quality assurance and evaluation to ensure fidelity to delivery standards.

All programming and treatment shall be delivered by appropriately licensed behavioral health personnel as required by delivery standards.

**2.2 Identification/Substitution of Personnel.** The Contractor identified personnel during negotiation of this Contract as those who will perform the services provided for the Department under this Contract. Contractor agrees that any professional personnel substituted by the Contractor during the term of the Contract must at a minimum hold the appropriate Montana professional license in good standing and conduct the required work to industry standards. If the Department deems the work of the professional person to be substandard, it will meet with Contractor to facilitate resolution of the problem. If the problem persists, Contractor agrees to provide a replacement professional person meeting the requirements set out herein. In the event Contractor professional personnel become unavailable, Contractor shall be responsible to promptly provide an equally qualified replacement at Contractor's expense to avoid delays in delivery of services. Contractor shall provide a copy of the Montana professional license of each professional person that it places with the Department before the professional person provides any services under this Contract.

### **3. WARRANTIES**

**3.1 Warranty of Services.** Contractor warrants that the services provided conform to the contract requirements, including any descriptions, specifications and attachments expressly made a part of this contract. The Department's acceptance of services provided by Contractor shall not relieve Contractor from its obligations under this warranty. In addition to its other remedies under this contract, at law, or in equity, the

Department may, at Contractor's expense, require prompt correction of any services failing to meet Contractor's warranty herein. Services corrected by Contractor shall be subject to all the provisions of this contract in the manner and to the same extent as services originally furnished.

**3.2 System Security.** Contractor shall ensure systems used during delivery of services under this Contract are adequately secure. For purposes of this Contract, adequate security is defined to require compliance with federal and State of Montana security requirements and to ensure freedom from those conditions that may impair the Department's use of its data and information technology or permit unauthorized access to the Department's data or information technology. The State of Montana has established control standards and policies that align with the NIST Cybersecurity Framework. The latest revision of NIST SP 800-53 is used for control adherence evaluation established after developing a security categorization utilizing FIPS PUB 199.

#### **4. CONSIDERATION/PAYMENT**

**4.1 Payment Schedule.** In consideration of the services to be provided, the Department shall pay Contractor according to the following schedule:

**A.** Each CD or MH evaluation performed at the facility at the Department's request, will be paid at the Medicaid reimbursement rate in effect for that service when the evaluation is performed. §§53-6-1312, MCA and 53-6-155(8), MCA.

**B.** Upon request by the Department, the Contractor may attend case staffing meetings with Department staff or collect collateral information needed to perform evaluations. These services shall be billed as case management services. The monthly total for these services cannot exceed one thousand five hundred and no/100 dollars (\$1,500.00).

**C.** The total contract maximum for evaluations and case management services shall not exceed forty-eight thousand six hundred and no/100 dollars (\$48,600.00) annually for the services described herein.

**D.** Invoices must clearly detail the services billed, including the offender name, applicable Medicaid billing code, the billing rate, and the name of the licensed person who provided professional services or general designation of administrative staff member who provided the case management services.

**E.** Department will **not** compensate Contractor for travel or travel time, lodging, meals, supplies, or any other expense incurred by Contractor while performing services identified within this Contract.

**4.2 Payment Terms.** The Department has 30 days to pay invoices, as allowed by 17-8-242, MCA. Contractor shall provide banking information at the time of contract execution in order to facilitate the Department's electronic funds transfer payments.

**4.3 Reference to Contract.** The contract number **MUST** appear on all invoices, packing lists, packages, and correspondence pertaining to the contract. If the number is not provided, the Department is not obligated to pay the invoice.

#### **5. ACCESS AND RETENTION OF RECORDS**

**5.1 Access to Records.** Contractor shall provide the Department, Legislative Auditor, or their authorized agents access to any records necessary to determine contract compliance. The Department may terminate this contract under Section 16, without incurring liability, for the Contractor's refusal to allow access as required by this Section. (18-1-118, MCA.)

**5.2 Retention Period.** Contractor shall create and retain all records supporting the services rendered for a period of eight years after either the completion date of this contract or termination of the contract.

## **6. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING**

Contractor may not assign, transfer, or subcontract any portion of this contract without the Department's prior written consent. (18-4-141, MCA) Contractor is responsible to the Department for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and the Department under this contract.

## **7. HOLD HARMLESS/INDEMNIFICATION**

Contractor agrees to protect, defend, indemnify, and hold harmless the Department, its elected and appointed officials, agents and employees from and against all legal, equitable or administrative claims, causes of action, damages, losses and expenses, of any kind or character, including but not limited to attorneys' fees and the costs of defense, arising in favor of Contractor's employees or third parties on account of bodily injury, sickness, disease, death, personal injury, violation of an offender's constitutional or statutory rights, or to injury to or destruction of tangible property except for such claims, causes of action, damages, losses or expenses which are solely due to the fault or negligence of the party seeking indemnity.

## **8. REQUIRED INSURANCE**

**8.1 General Requirements.** Contractor shall maintain for the duration of this contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

**8.2 Primary Insurance.** Contractor's insurance coverage shall be primary insurance with respect to the Department, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the Department, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

**8.3 Specific Requirements for Professional Liability.** Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of \$300,000 per occurrence and \$600,000 aggregate per year to cover such claims as may be caused by any act, omission, negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors. Note: If "occurrence" coverage is unavailable or cost prohibitive, Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of this contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three-year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

**8.4 Deductibles and Self-Insured Retentions.** Any deductible or self-insured retention must be declared to and approved by the Department. At the request of the Department either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Department, its officers, officials, employees, or volunteers; or (2) at the expense of Contractor, Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

**8.5 Certificate of Insurance/Endorsements.** A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by the Department's Contracts Management Bureau, P.O. Box 201301, Helena, MT 59620. Contractor must notify the Department immediately of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The Department reserves the right to require complete copies of insurance policies at all times.

**8.6 Specific Requirements for Cyber/Data Information Security Insurance.** The Contractor shall purchase and maintain cyber/information security insurance coverage with combined single limits for each wrongful act of \$2,000,000 per occurrence to cover the unauthorized acquisition of personal information such as social security numbers, credit card numbers, financial account information, or other information that uniquely identifies an individual and may be of a sensitive nature in accordance with §2-6-1501, MCA through §2-6-1503, MCA. If the Contractor maintains higher limits than the minimums shown above, the State requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the State. Such insurance must cover, at a minimum, privacy notification costs, credit monitoring, forensics investigations, legal fees/costs, regulatory fines and penalties, and third-party liability settlements or judgments as may be caused by any act, omission, or negligence of the Contractor's officers, agents, representatives, assigns or subcontractors. Note: If occurrence coverage is unavailable or cost-prohibitive, the State will accept 'claims made' coverage provided the following conditions are met: 1) the retroactive date must be shown, and must be before the date of the contract or the beginning of contract work; 2) insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work; and 3) if coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of three (3) years after completion of work.

## **9. LICENSURE AND BACKGROUND CHECKS**

**9.1 Licensure.** Contractor agrees to maintain on file with the Department at all times a copy of current professional/occupational license(s), registrations, and certifications of persons performing professional services under the Contract, as required under Title 37, Chapters 3, 17, 22, 23, or 35, MCA.

**9.2 Background Checks.** Contractor shall complete criminal background checks for all persons involved in providing services for this Contract upon initial employment and every five (5) years thereafter in compliance with the Prison Rape Elimination Act 42 U.S.C.A. § 15601ff, the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.3.14, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA. Any subletting or subcontracting by Contractor subjects those subcontractors to the same provisions.

## **10. COMPLIANCE WITH WORKERS' COMPENSATION ACT**

Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for the Department of Montana in accordance with 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither Contractor nor its employees are Department employees. This insurance/exemption must be valid for the entire contract term and any renewal. Upon expiration, a renewal document must be sent to the Department's Contracts Management Bureau, P.O. Box 201301, Helena, MT 59620.

## **11. COMPLIANCE WITH DARK MONEY SPENDING DISCLOSURE REQUIREMENTS**

Contractor shall comply with the provisions of the State of Montana Executive Order No. 15-2018. Contractor shall annually submit a declaration form to the contract liaison. Declaration forms can be found at:

[https://vendorresources.mt.gov/Portals/121/vendor\\_resources/EO\\_DECLARATION%20FORM.pdf?ver=2018-09-13-100259-243](https://vendorresources.mt.gov/Portals/121/vendor_resources/EO_DECLARATION%20FORM.pdf?ver=2018-09-13-100259-243) .

All disclosures must be submitted to (insert agency contact information), for reporting on <https://transparency.mt.gov/>. Failure to comply with these requirements may result in contract termination. Contractor agrees that such a failure is a material breach of this Contract.

## **12. COMPLIANCE WITH LAWS**

Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Contractor will comply with the Prison Rape Elimination Act 42 U.S.C.A. § 15601ff, the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.3.14, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA to include incident reporting. Contractor shall establish a zero-tolerance policy to incidents of sexual assault/rape or sexual misconduct. Any subletting or subcontracting by Contractor subjects those subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

The Affordable Care Act requires a contractor, if contractor is an applicable large employer under the ACA, to provide healthcare coverage for its employees who provide services for the State and work for 30 or more hours per week. This coverage must also cover the eligible employee's dependents under the age of 26. The coverage must (a) meet the minimum essential coverage, minimum value, and affordability requirements of the employer responsibility provisions under Section 4980H of the Code (ACA), and (b) otherwise satisfy the requirements of the Code § 4980 H (ACA) if provided by the State.

**Additional Indemnification.** Claims under this provision also include those arising out of or in any way connected with Contractor's breach of this contract, including any Claims asserting that any of Contractor's employees are actually employees or common law employees of the State or any of its agencies, including but not limited to, excise taxes or penalties imposed on the State under the Code §§ 4980H, 6055 or 6056.

**Reporting Requirements.** Contractor, if contractor is an applicable large employer under the ACA, further states that it shall satisfy all reporting requirements under the Code §§ 6055 and 6056 (ACA) with respect to individuals who perform services for the State.

**Auditing.** The State may audit Contractor's operations to ensure that the Contractor has complied with the statements made above.

## **13. DISABILITY ACCOMMODATIONS**

The Department does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

Sunburst Mental Health  
Contract #COR-SVCS-2019-0209-PPD  
Contracting Authority: 18-4-132, MCA

#### **14. REGISTRATION WITH THE SECRETARY OF STATE**

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

#### **15. INTELLECTUAL PROPERTY/OWNERSHIP**

**15.1 Ownership of Work Product.** Contractor shall execute any documents or take any other actions as may reasonably be necessary, or as the Department may reasonably request, to perfect the Department's ownership of any Work Product.

**15.2 Ownership of Contractor Pre-Existing Materials.** Contractor retains ownership of all literary or other works of authorship (such as software programs and code, documentation, reports, and similar works), information, data, intellectual property, techniques, subroutines, algorithms, methods or related rights and derivatives that Contractor owns at the time this contract is executed or otherwise developed or acquired independent of this contract and employed by Contractor in connection with the services provided to the Department (the "Contractor Pre-existing Materials"). Contractor Pre-existing Materials are not Work Product. Contractor shall provide full disclosure of any Contractor Pre-Existing Materials to the Department before its use and to prove its ownership. If, however, Contractor fails to disclose to the Department such Contractor Pre-Existing Materials, Contractor shall grant the Department a nonexclusive, worldwide, paid-up license to use any Contractor Pre-Existing Materials embedded in the Work Product to the extent such Contractor Pre-Existing Materials are necessary for the Department to receive the intended benefit under this contract. Such license shall remain in effect for so long as such Pre-Existing Materials remain embedded in the Work Product. Except as otherwise provided for in Section 15.1 or as may be expressly agreed in any statement of work, Contractor shall retain title to and ownership of any hardware it provides under this contract.

#### **16. CONTRACT TERMINATION**

**16.1 Termination for Cause with Notice to Cure Requirement.** The Department may terminate this contract in whole or in part for Contractor's failure to materially perform any of the services, duties, terms, or conditions contained in this contract after giving Contractor written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

**16.2 Termination for Cause with Notice to Cure Requirement.** Contractor may terminate this contract for the Department's failure to perform any of its duties under this contract after giving the Department written notice of the failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

**16.3 Reduction of Funding.** The Department must by law terminate this contract if funds are not appropriated or otherwise made available to support the Department's continuation of performance of this



contract in a subsequent fiscal period. (18-4-313(4), MCA.) If state or federal government funds are not appropriated or otherwise made available through the Department budgeting process to support continued performance of this contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, the Department shall terminate this contract as required by law. The Department shall provide Contractor the date the Department's termination shall take effect. The Department shall not be liable to Contractor for any payment that would have been payable had the contract not been terminated under this provision. As stated above, the Department shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date the Department's termination takes effect. This is Contractor's sole remedy. The Department shall not be liable to Contractor for any other payments or damages arising from termination under this Section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

## **17. EVENT OF BREACH – REMEDIES**

**17.1 Event of Breach by Contractor.** Any one or more of the following Contractor acts or omissions constitute an event of material breach under this contract:

- ⌚ products or services furnished fail to conform to any requirement;
- ⌚ failure to submit any report required by this contract;
- ⌚ failure to perform any of the other terms and conditions of this contract, including but not limited to beginning work under this contract without prior Department approval; or
- ⌚ voluntary or involuntary bankruptcy or receivership.

**17.2 Event of Breach by Department.** The Department's failure to perform any material terms or conditions of this contract constitutes an event of breach.

**17.3 Actions in Event of Breach.** Upon Contractor's material breach, the Department may:

- ⌚ terminate this contract under Section 16.1 and pursue any of its remedies under this contract, at law, or in equity; or
- ⌚ treat this contract as materially breached and pursue any of its remedies under this contract, at law, or in equity.

Upon the Department's material breach, Contractor may:

- ⌚ terminate this contract under Section 16.2 and pursue any of its remedies under this contract, at law, or in equity; or
- ⌚ treat this contract as materially breached and, except as the remedy is limited in this contract, pursue any of its remedies under this contract, at law, or in equity.

## **18. FORCE MAJEURE**

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than five working days after the onset. If the notice is not provided within the five-day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this contract, unless the parties mutually agree that the obligation is excused because of the condition.

**19. WAIVER OF BREACH**

Either party's failure to enforce any contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

**20. CONFORMANCE WITH CONTRACT**

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without the Department's Contracts Management Bureau's prior written consent. Product or services provided that do not conform to the contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.

**21. LIAISONS AND SERVICE OF NOTICES**

**21.1 Contract Liaisons.** All project management and coordination on the Department's behalf must be through a single point of contact designated as the Department's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed under this contract must be coordinated between the Department's liaison and Contractor's liaison.

Heather Smith is Department's liaison  
2340 Mullan Rd  
Missoula, MT 59808  
Telephone: 406-258-4021  
Fax: 406-258-4079  
E-mail: HSmith2@mt.gov

Julie Fleck is Contractor's liaison.  
1511 S. Russell St.  
Missoula, MT 59801  
Telephone: 406-203-9948  
Cell Phone: 406-885-4074  
Fax: 406-203-9949  
E-mail: jfleck@sunburstfoundation.org

**21.2 Notifications.** The Department's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints must first be directed to the liaison. Notice may be provided by personal service, mail, or E-mail. If notice is provided by personal service or E-mail, the notice is effective upon receipt; if notice is provided by mail, the notice is effective three business days after mailing. A signed and dated acknowledgement of the notice is required of both parties.

**22. MEETINGS**

**22.1 Technical or Contractual Problems.** Contractor shall meet with the Department's personnel, or designated representatives, to resolve technical or contractual problems occurring during the contract term or to discuss the progress made by Contractor and the Department in the performance of their respective obligations, at no additional cost to the Department. The Department may request the meetings as problems arise and will be coordinated by the Department. The Department shall provide Contractor a minimum of three (3) full working days' notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive

meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the contract.

**22.2 Failure to Notify.** If Contractor fails to specify in writing any problem or circumstance that materially affects the costs of its delivery of services or products, including a material breach by the Department, about which Contractor knew or reasonably should have known with respect to the period during the term covered by Contractor's status report, Contractor shall not be entitled to rely upon such problem or circumstance as a purported justification for an increase in the price for the agreed upon scope.

**22.3 Department's Failure or Delay.** For a problem or circumstance identified in Contractor's status report in which Contractor claims was the result of the Department's failure or delay in discharging any Department obligation, the Department shall review same and determine if such problem or circumstance was in fact the result of such failure or delay. If the Department agrees as to the cause of such problem or circumstance, then the parties shall extend any deadlines or due dates affected thereby and provide for any additional charges by Contractor. This is Contractor's sole remedy. If the Department does not agree as to the cause of such problem or circumstance, the parties shall each attempt to resolve the problem or circumstance in a manner satisfactory to both parties.

## **23. TRANSITION ASSISTANCE**

If this contract is not renewed at the end of this term, if the contract is otherwise terminated before project completion, or if particular work on a project is terminated for any reason, Contractor shall provide transition assistance for a reasonable, mutually agreed period of time after the expiration or termination of this contract or particular work under this contract. The purpose of this assistance is to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the Department or its designees. The parties agree that such transition assistance is governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The Department shall pay Contractor for any resources utilized in performing such transition assistance at the most current contract rates. If the Department terminates a project or this contract for cause, then the Department may offset the cost of paying Contractor for the additional resources Contractor utilized in providing transition assistance with any damages the Department may have sustained as a result of Contractor's breach.

## **24. CHOICE OF LAW AND VENUE**

Montana law governs this contract. The parties agree that any litigation concerning this bid, proposal, or this contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

## **25. TAX EXEMPTION**

The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

## **26. AUTHORITY**

This contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

## **27. SEVERABILITY CLAUSE**

A declaration by any court or any other binding legal source that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are

mutually and materially dependent.

## 28. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT

**28.1 Contract.** This contract consists of ten (10) numbered pages plus any Attachments referred to within the numbered pages of the Contract provided they have been expressly incorporated herein by reference.

**28.2 Entire Agreement.** The Contract constitutes the entire agreement of the parties. All prior negotiations, representations, and understandings between the parties are superseded by the Contract. Any amendment or modification of the Contract must be in writing signed by the parties.

## 29. WAIVER

The Department's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

## 30. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

**DEPARTMENT OF MONTANA**  
**Montana Department of Corrections**  
**5 S. Last Chance Gulch**  
**Helena, MT 59601**

**SUNBURST MENTAL HEALTH**  
**1511 S. Russell St.**  
**Missoula, MT 59801**

**MEGAN COY, Bureau Chief**

**JULIE FLECK, LCSW**

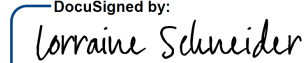
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Approved as to Legal Content:

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 Legal Counsel (Date)